

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 92-028-C - ORDER NO. 92-554 ✓
JULY 17, 1992

IN RE: Application of Robert Cefail & Associates) ORDER
American Inmate Communications, Inc. for) GRANTING
a Certificate of Public Convenience and) PETITION FOR
Necessity to Operate as a Reseller of) REHEARING
Telecommunications Services, including) AND/OR
Operator Services, within the State of) RECONSIDERATION
South Carolina.) AND DENYING
) APPLICATION FOR
) A CERTIFICATE
) OF PUBLIC
) CONVENIENCE AND
) NECESSITY

This matter is before the Public Service Commission of South Carolina (the Commission) on the Petition for Rehearing and/or Reconsideration (the Petition) of Order No. 92-431 (June 17, 1992) filed by Pay-Tel Communications, Inc. (Pay-Tel). Pay-Tel asserts the Commission's decision granting Robert Cefail & Associates American Inmate Communications, Inc. (Cefail) a Certificate of Public Convenience and Necessity to operate as a reseller of telecommunications services, including authority to provide automated collect service in confinement facilities, is against the substantial evidence of the whole record. Pay-Tel specifically asserts the substantial evidence of record indicates Cefail is not fit to provide reseller services in the State of South Carolina and, consequently, the Commission's grant of

authority is erroneous in view of the evidence. Cefail has filed a response opposing the Petition. After review of Pay-Tel's Petition, Cefail's response, Order No. 92-431, the evidence of record, and the applicable law, the Commission finds that the Petition should be granted and Cefail's Application for a Certificate of Public Convenience and Necessity should be denied.

The record from the proceeding in this matter indicates that for over one year Cefail provided coin or coinless telephone (COCOT) service at the Orangeburg-Calhoun Detention Center without having any certification from this Commission.¹ Hearing Exhibit 2; Order No. 91-731, Docket No. 85-150-C (August 22, 1991). Further, the evidence reveals that, at times, Cefail employed Opticom as the operator service provider at this confinement facility, even though Opticom had not yet obtained Commission authority. At other times, Cefail completed the automated telephone calls itself, even though it did not have Commission authority to provide operator services.² [(Tr., p. 71, line 14-p. 75, line 5; Hearing Exhibit 2, Order No. 91-33, Docket No. 90-114-C (January 9, 1992)] The record further reveals that Cefail admitted it had published and distributed sales literature which suggests it had a contract with the Newberry County Detention Center for automated operator services when in fact it

1. In May 1990, Cefail installed COCOTS at the Orangeburg-Calhoun Detention Center. On August 22, 1991, the Commission granted Cefail's Application for COCOT authority.

2. Opticom's Application to provide operator services was granted on January 9, 1991.

had not received Commission approval to provide operator services. (Tr., p. 77, line 18- p. 78, line 8; Hearing Exhibit 11).

Moreover, as recognized in Order No. 92-431, "Mr. Moreland admitted that Cefail had on a systemwide basis overcharged customers in North Carolina for the last two years...."³ Order, pp. 3-4. The Commission noted that Mr. Moreland explained that Cefail had not deliberately overcharged these North Carolina customers and was willing to repay the overcollections. Order No. 92-431, p. 4.

In Order No. 92-431 the Commission expressed concerns "about Cefail's violations of pay telephone rules and regulations and, consequently, its fitness to provide the services it requests in this Application." Order, p. 5. Nonetheless, the Commission granted Cefail's Application, "based upon its experience, financial resources, capability, and assertion that it will comply with all applicable rules and regulations of this Commission...." (Emphases added). Upon further consideration of the record, particularly the evidence cited above, the Commission concludes that Cefail's Application should be denied for lack of fitness. Although Cefail asserts that it will comply with all applicable rules and regulations, the Commission recognizes that Cefail has a history of actions which violate the rules of both the North Carolina Public Utility Commission and of this Commission. Even assuming these violations were unintentional, the Commission finds

3. Scott Moreland was Cefail's only witness.

that Cefail had an affirmative duty to determine the appropriate rates prior to charging its North Carolina customers and, similarly, to determine the extent of its Commission-granted authority prior to providing a particular telecommunications service in South Carolina. The Commission concludes that Cefail's history of violations, whether deliberately incurred or not, demonstrate it is not fit to provide telecommunications services within the State of South Carolina.

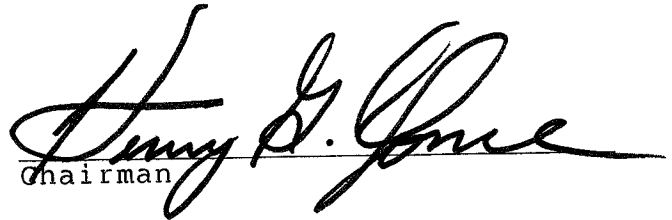
IT IS THEREFORE ORDERED as follows:

1. Pay-Tel's Petition for Rehearing and/or Reconsideration is granted.
2. Cefail's Application for a Certificate of Public Convenience and Necessity to operate as a reseller of telecommunications services, including operator services, within the State of South Carolina is denied.
3. Cefail shall immediately move to discontinue the provision of any reseller services, including automated operator services at confinement facilities, and shall assist its customers in obtaining comparable services from other telecommunications providers authorized by this Commission.

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4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)